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EML
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CAUSE NUMBER: 202220604

PLAINTIFF: KISSOONDATH, DANE

In the 333rd Judicial

vs.

District Court of

DEFENDANT: EMJ CONSTRUCTION LLC

Harris County, Texas

CITATION

THE STATE OF TEXAS
County of Harris

✓ TO: EMJ CONSTRUCTION MAY BE SERVED BY SERVING ITS REGISTERED AGENT
CORPORATION SERVICE COMPANY
211 E 7TH STREET SUITE 620
AUSTIN TX 78701-3136

Attached is a copy of PLAINTIFF'S ORIGINAL PETITION AND JURY DEMAND.

This instrument was filed on April 5, 2022, in the above numbered and styled cause on the docket in the above Judicial District Court of Harris County, Texas, in the courthouse in the City of Houston, Texas. The instrument attached describes the claim against you.

YOU HAVE BEEN SUED. You may employ an attorney. If you or your attorney do not file a written answer with the District Clerk who issued this citation by 10:00 a.m. on the Monday next following the expiration of twenty days after you were served this citation and petition, a default judgment may be taken against you. In addition to filing a written answer with the clerk, you may be required to make initial disclosures to the other parties of this suit. These disclosures generally must be made no later than 30 days after you file your answer with the clerk. Find out more at TexasLawHelp.org.

ISSUED AND GIVEN UNDER MY HAND and seal of said Court, at Houston, Texas, this April 8, 2022.



Marilyn Burgess

Marilyn Burgess, District Clerk
Harris County, Texas
201 Caroline, Houston, Texas 77002

Generated By: MARIA RODRIGUEZ

Issued at request of:
HENNESSY, EDWARD J.
2701 LOUISIANA ST., 1ST FLOOR
HOUSTON, TX 77006
(713) 224-5066
Bar Number: 09472000

05/05/2022
B. S. Smith
PSC481

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PLAINTIFF: KISSOONDATH, DANE

In the 333rd

vs.

Judicial District Court

DEFENDANT: EMJ CONSTRUCTION LLC

of Harris County, Texas

OFFICER/AUTHORIZED PERSON RETURN

Came to hand at 1:13 o'clock P. M., on the 03 day of May 2022, 20 .

Executed at (address) _____
in _____ County
at _____ o'clock _____ M., on the _____ day of _____, 20 _____,

by delivering to _____ defendant,
in person, a true copy of this
Citation together with the accompanying _____ copy(ies) of the
_____ Petition
attached thereto and I endorsed on said copy of the Citation the date of delivery.
To certify which I affix my hand officially this _____ day of _____, 20 _____.

FEE: \$ _____
_____ of _____

County, Texas

By: _____
Affiant Deputy

On this day, _____, known to me to be
the person whose signature
appears on the foregoing return, personally appeared. After being by me duly sworn,
he/she stated that this citation was executed by him/her in the exact manner recited
on the return.

SWORN TO AND SUBSCRIBED BEFORE ME on this _____ of _____, 20 _____

Notary Public

CAUSE NO. 2022-20604

DANE KISSOONDATH	§	IN THE DISTRICT COURT OF
	§	
V.	§	
	§	HARRIS COUNTY, TEXAS
	§	
EMJ CONSTRUCTION, LLC	§	<u>333rd</u> JUDICIAL DISTRICT

PLAINTIFF'S ORIGINAL PETITION AND JURY DEMAND

TO THE HONORABLE JUDGE OF SAID COURT:

NOW COMES, DANE KISSOONDATH hereinafter called Plaintiff complaining of EMJ CONSTRUCTION, LLC hereinafter called Defendant and for cause of action would show the Court and jury as follows:

CASE LEVEL

1. This is a Level 3 case for discovery purposes.

RULE 47 STATEMENT

2. Plaintiff seeks monetary relief in excess of \$1,000,000.00.

PARTIES

3. Plaintiff, DANE KISSOONDATH, is a resident of Houston, Harris County, Texas at all times material to this lawsuit. The last four digits of his Social Security number are XXX-XX-7459. The last three digits of his driver's license number are XXXXX042.

4. Defendant, EMJ CONSTRUCTION, LLC, domestic limited liability company (LLC) duly organized and existing under law, doing business in the State of Texas and incorporated pursuant to the laws of the State of Texas.

This Defendant can be served with process herein by serving its Registered Agent, Corporation Service Company, 211 E. 7th Street, Suite 620, Austin, Texas 78701-3136.

FACTUAL BACKGROUND

5. This is a premise defect case. It is also a case involving negligent activities being performed by the Defendant at the location where the incident made the basis of this lawsuit occurred. On or about December 18, 2021, EMJ CONSTRUCTION, LLC was the general contractor at the construction site located in Houston, Harris County, Texas. IES was the subcontractor to EMJ CONSTRUCTION, LLC. IES is an electrical subcontractor and had its employees on the site in question pursuant to the contractual business relationship between EMJ CONSTRUCTION, LLC and IES. Thus, the Plaintiff, by virtue of being an employee of IES, was a business invitee on the premises in question at the time that he received very severe and disabling personal injuries.

6. On the date in question, the Plaintiff was in the discharge of his duties and doing work along with two other employees of IES at a location on the premises known as the pump jockey room or pump room. The Defendant who was in charge and control of the premises had caused a deep hole to be built into the slab foundation. On information and belief, the hole was to be used to hold a pump which was to be installed at a later date. The photos of the hole in question appeared to show it to be approximately 4-foot square

(see attached Exhibits "1" and "2"). The room in question where the opening on the floor existed was dimly lit because the construction had not progressed far enough for full illumination of the pump jockey room.

7. The Plaintiff would show that his duties on the day in question caused him to go into this room and assist two other electricians in order to do some work. The Plaintiff would show he entered this room with the full knowledge and consent of the general contractor for the purpose of discharging his employment obligations.

8. The Plaintiff would show that the hole in question was not marked or covered. It had no barrier around the hole notwithstanding the fact that it was approximately 4 foot deep. Contrary to OSHA regulation, it was located in a dimly lighted section of the room. Plaintiff believes the Defendant knew of the existence of this hole and had been previously informed that the hole was dangerous and likely posed a danger to individuals who were entering the room. Notwithstanding the Defendant's actual knowledge of the existence of the hole prior to the incident in question, the Defendant failed or refused to barricade or otherwise cover the hole in question and breached its duty of care in failing to do so. Such failure on the part of the Defendant caused a premise defect to be created and also constituted a negligent activity at the premises in question which were under the control of the Defendant.

9. The Plaintiff will show that as he entered the room, he fell into the hole severely injuring his leg and other parts of his body. The Plaintiff was

lifted out of the hole and it was obvious that his leg was very deformed as a result of the fall into the hole. The injuries in question were proximately caused by the negligent acts or omissions on the part of the Defendant as set forth hereinabove which negligence was greater than the negligence, if any, on the part of this Plaintiff.

10. In the incident in question, the Plaintiff received extraordinarily severe injuries. He has had extensive surgical intervention to his leg and as of the filing of this lawsuit, remains totally disabled and unable to engage in his normal work activities. He has been caused to suffer much pain, suffering, mental anguish, and physical impairment in the past as a result of the injuries which he received and is likely to suffer much pain, suffering, mental anguish, and physical impairment for a long time into the future. He has also suffered a loss of earnings or earning capacity as a result of the injuries which he received which is likely to continue for a long time in the future. In addition, the Plaintiff has received significant medical treatment for his injuries and the cost of that medical treatment will be shown to be both reasonable as to amounts and made necessary for the proper care and treatment of his injuries. Such medical care is ongoing and is likely to continue for a long time into the future.

11. As a result of the injuries and damages which the Plaintiff has sustained which were proximately caused by the negligence and negligence per se of this Defendant, the Plaintiff would show he is entitled to a judgment

against the Defendant for a sum of at least \$1,000,000.00 for which judgment he here now prays.

REQUESTS FOR DISCLOSURE TO DEFENDANT(S)

12. Pursuant to Section 194.2 of the Texas Rules of Civil Procedure, Plaintiff requests you disclose, within 50 days of service of this request, the information or materials described in Texas Rule of Civil Procedure 194.2(1)-(12).

WHEREFORE, PREMISES CONSIDERED, the Plaintiff prays that Defendant be cited to appear and answer herein, that upon a final trial hereof Plaintiff have judgment against the Defendant for a sum of at least \$1,000,000.00, for prejudgment and post judgment interest, for costs of court and have such other and further relief, both general and special, at law and in equity to which he may show himself justly entitled.

JURY DEMAND

Plaintiff, DANE KISSOONDATH, hereby demands a trial by jury on all issues.

Respectfully submitted,

THE HENNESSY LAW FIRM

By 

EDWARD J. HENNESSY

SBN 09472000

2701 Louisiana St., 1st Floor

Houston, Texas 77006

(713) 224-5066

(713) 224-5055 - fax

E-mail: ejh@hgbatty.com

ATTORNEY FOR PLAINTIFF







